

To: Montgomery, Michael[Montgomery.Michael@epa.gov]
From: Albright, David
Sent: Mon 7/21/2014 10:04:02 PM
Subject: Hot issues call

Okay, this is what I pulled from her calendar (I'll forward the documents separately)

Water Division Directors Hot Issues Call – Wednesday, July 23, 2014

Topic: Aquifer Exemptions

Presenter(s): Peter Grevatt, Ron Bergman

Background

AEs remove SDWA protections from an aquifer or portion of an aquifer to allow injection through the UIC program. AEs require EPA approval even where states have primacy for the UIC program. The number of AE requests have increased in the past few years due to resource extraction activities, and have states raised concerns about EPA consistency and approach.

We discussed AEs in detail at our face-to-face WDD meeting a little over a year ago. At that time, we agreed to create a workgroup of a subset of WDDs to enhance national consistency in our approach to reviewing and approving AEs in the near term. Over the course of the last year, staff from EPA HQ, Regions 6, 7 and 8, and a number of key states participated in a work group organized by GWPC to help bring greater clarity to the needs and expectations of EPA and states in approving AE requests. OGWDW also engaged Water Division Directors and staff in Region 6, 7, 8, and 9 in discussions of the key AE process improvements that were tentatively agreed on with the states and in the preparation of this draft memo.

We've developed a draft AE memo that communicates the proposed process improvements identified through the GWPC work group and reaffirms EPA's role in the AE approval process. Key points include:

- o The need to provide consistency and predictability in the AE review process

- o Development of a simple outline and checklist for the AE approval process to be shared with state programs
- o Factors that are likely to make AE requests more complex (including in particular, nearby drinking water wells
- o A suggestion for an early consultation between the EPA Region and the state to discuss key issues related to AE requests that are likely to be more complex
- o A clear articulation that EPA's consideration of current underground sources of drinking water recognizes ground water movement
- o An identified path for dispute resolution with states if needed.

GWPC has agreed that a specific outline/checklist for the record of decision could also be useful.

Expected Outcome

Approval from the Water Division Directors to Issue the Aquifer Exemption Memorandum

Discussion Questions

- Are you seeing new types of AE issues in your Region?
- What issues are you seeing that aren't addressed in this memo?
- What other AE issues need more EPA discussion?

Next steps

- Facilitate implementation of the memo in all the regions
- Continue coordination with regional Water Division Directors and states through the Ground Water Protection Council, to identify and address remaining AE issues, including consideration in "future use" determinations.

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